



4410-15

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree

Pursuant to the Resource Conservation and Recovery Act and the Clean Water Act

On November 5, 2014, the Department of Justice lodged a proposed Consent Decree (“Decree”) in the United States District Court for the Northern District of Alabama, Southern Division, in the lawsuit entitled United States of America and State of Alabama v. Bessemer Petroleum, Inc., Tri-State Petroleum Products, LLC, and Twin States Petroleum Products, LLC., (collectively “Defendants”) Civil Action No. 2:12-cv-01141-RDP. The Plaintiffs in this case are the United States on behalf of the United States Environmental Protection Agency and the State of Alabama Department of Environmental Management (“ADEM”) (collectively referred to as “Plaintiffs”).

This Decree represents a settlement of claims against the Defendants for failure to comply with administrative orders issued pursuant to the Resource Conservation and Recovery Act (“RCRA”) and the Clean Water Act (“CWA”), for violations of the Solid Waste Disposal Act (“SWDA”), as amended by RCRA, 42 U.S.C. §§ 6901-6992k, and, pursuant to Section 311 of the CWA, 33 U.S.C. § 1321, for the recovery of costs incurred by the United States Coast Guard in responding to the discharge or threat of discharge of oil at the Defendants’ facility in Jefferson County, Alabama.

The Consent Decree provides for the injunctive relief sought by the United States that ~~Plaintiffs submit~~ is necessary to address the Defendants’ violations to protect human health and the environment. The injunctive relief that the Defendants must perform is set forth in Section

VI. (Work to be Performed) of the Consent Decree, and in Appendix B to the Consent Decree (Statement of Work).

The work set forth in the Statement of Work includes: (1) providing site security; (2) removing and disposing/recycling of all free liquids or sludges from any containers on site; (3) removing or permanently closing all above-ground storage tanks (“ASTs”) at the facility; (4) permanently closing the underground storage tanks (“USTs”) at the facility in accordance with Alabama Department of Environmental Management (“ADEM”) Admin. Code Chapter 335-6-15 (40 CFR Part 280 (Subpart G)); (5) performing a site assessment of soil and groundwater contamination at and around the facility or off-site, as necessary; (6) excavating oil-contaminated soils and disposing of all waste materials; and (7) performing all necessary remediation activities to address contamination exceeding applicable screening or cleanup levels. The Consent Decree requires financial assurance in the form of an escrow account, trust fund, surety bond, letter of credit, or insurance in an amount sufficient to cover the cost of the work outlined in the Statement of Work.

The Consent Decree also requires the Defendants to reimburse the United States Coast Guard for costs incurred in the amount of \$239,285.47. In addition, the Consent Decree requires the payment of a \$20,000 penalty, to be divided equally between the Plaintiffs. The Consent Decree contains provisions for stipulated penalties for failure to comply with the requirements of the Decree.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to United States and State of Alabama v. Bessemer Petroleum, Inc., et al, Civil Action No. 2:12-cv-01141-RDP, D. J. Ref. No. 90-7-1-09700. All

comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

To submit comments:	Send them to:
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, DC 20044-7611

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website:
http://www.usdoj.gov/enrd/Consent_Decrees.html. We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
P.O. Box 7611
Washington, DC 20044-7611

Please enclose a check or money order for \$12.00 (25 cents per page reproduction cost) payable to the United States Treasury for the Consent Decree and Exhibits thereto.

Henry S. Friedman
Assistant Section Chief
Environmental Enforcement Section
Environment and Natural Resources Division

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